IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MASA LLC, Plaintiff, v. APPLE INC., Defendant.	Case No. 4:15-cv-889-AGF

PLAINTIFF MASA LLC'S OPPOSITION TO
DEFENDANT APPLE INC.'S MOTION TO TRANSFER

Apple asks the Court to transfer this case from Masa's home forum to Apple's home forum—the Northern District of California—under 28 U.S.C. § 1404(a). This statute allows the Court to transfer cases to other districts in its discretion "[f]or the convenience of parties and witnesses, in the interests of justice." Masa LLC ("Masa") is a St. Louis-based startup with limited resources. Apple is one of the largest companies in the world and has accumulated over $[redacted] in U.S. sales of the accused Apple Watch products during the first three months alone. Apple asks the Court to shift the expense and inconvenience of litigating away from home from Apple to Masa. Apple's assertion that doing so would serve the "interests of justice" rings hollow.

In support of its motion, Apple characterizes Masa's connection to the Eastern District of Missouri as "recent, ephemeral, and an artifact of litigation." Doc. 32 at 10. This is incorrect. Masa is a Missouri company whose owners are three entrepreneurs who invented a smartwatch in 2010 in St. Louis. These entrepreneurs prepared and filed a patent application for their invention and, in 2013, were awarded U.S. Patent No. 8,519,834 ("the '834 patent")—the patent at issue in this case. In 2014 and early 2015 they invested substantial money and time working to build a startup company in St. Louis to sell their patented smartwatch.

Apple provides no legitimate justification for transferring this case to the Northern District of California. Sales of the infringing Apple Watch products occur throughout the United States, including at the Apple Stores and other retail outlets located in this District. Two of the three named inventors and owners of Masa live and work here in St. Louis. Forcing them to pursue their patent rights in the Northern District of California would result in a substantial inconvenience and financial burden. Apple's representation that there are important trial witnesses in California contradicts its prior representations in discovery and does not justify its motion. Masa's choice to file suit seeking relief from Apple's ongoing patent infringement in Masa's home forum of St. Louis (rather than shopping for a venue with little connection to the case) should not be disturbed. Masa respectfully requests the Court to deny Apple's motion to transfer.

I. BACKGROUND

Masa was formed in 2014 by three local entrepreneurs who were working to build a startup company in St. Louis around their new patented smartwatch product. Masa is wholly owned by these three entrepreneurs: husband and wife Michael and Andrea Jersa and their friend and business partner Avinash Bhardwaj ("Avi"). Ex. 1 (Declaration of Michael Jersa) at ¶¶1-2, 7-8. These three are also the inventors named on the '834 patent at issue in this case. *Id.*

The facts of this case start in 2010 when Andrea Jersa missed a call while at a public swimming pool in Chesterfield, Missouri, with her children. *Id.* at ¶9. She missed the call because her cell phone—although close by—was inaccessible and she did not realize that it was ringing. At that moment, Andrea had a spark of an idea for a smartwatch. *Id.* During subsequent brainstorming sessions at the Jersas' home in Wildwood, Missouri, the three inventors expanded on Andrea's smartwatch idea. *Id*. at ¶10. Working together they conceived a smartwatch that would link to the user's cell phone and have features and functions that would overcome the problems and shortcomings with existing communications devices. *Id*. Avi had worked previously at a St. Louis law firm as a patent engineer drafting patent applications. *Id*. at ¶8. As the inventors' smartwatch idea continued to materialize, Avi would incorporate the details into a draft patent application. *Id*. at ¶11. On August 22, 2010, the inventors finished their patent application and filed it with the United States Patent Office. *Id*. The Patent Office issued the '834 patent to the inventors on August 27, 2013.

After successfully patenting their smartwatch invention, the inventors began exploring ways to commercialize their patented invention. Michael Jersa met a consultant who helped develop a business plan and assemble a team to develop a prototype watch featuring the patented technology. Ex. 1 at ¶14. And on January 31, 2014, Michael incorporated Clockwork Smart LLC in Missouri to pursue the business plan. *Id.* at ¶¶14-15; *see also* Ex. 2; Ex. 3. At this time, a number of companies had launched or announced imminent launches of their own smartwatch products, including large corporations such as Samsung and Apple, as well as fellow startup company, Pebble. Therefore, Michael's startup business plan focused on designing hardware that could be incorporated into watches made by traditional watch manufacturers. Ex. 2. To further this endeavor, Clockwork Smart partnered with local St. Louis designers and consultants to form an advisory board, develop a business plan, develop a prototype, seek investors, identify marketing and distribution partners, and identify and market to potential customers. Ex. 1 at ¶15; Ex. 2; Ex. 3.

Michael, Andrea, and Avi formed Masa (named as an acronym for Michael and Andrea Jersa and Suhasini and Avinash Bhardwaj) on June 17, 2014. Ex. 1 at ¶17. Masa was formed for the business purpose of maintaining the ownership of the '834 patent and future intellectual property separate from Clockwork Smart. *Id.* Although Michael and Andrea juggled full-time careers and Avi was no longer living in the U.S., they continued their efforts to develop and market a smartwatch product throughout 2014 and early 2015. *Id.* at ¶¶5, 6, 8, and 18. On April 25, 2015—a day after the release of the Apple Watch—Michael, Andrea, and Avi abandoned their attempt to build a startup smartwatch company in St. Louis. *Id.* at ¶18. Masa and its three owners now focus their efforts on licensing their patented smartwatch invention to existing companies. *Id.* at ¶19.

I. LEGAL STANDARD

"For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought. . . ." 28 U.S.C. § 1404(a). The party seeking a § 1404(a) transfer "typically bears the burden of proving that a transfer is warranted." *Terra Int'l, Inc. v. Mississippi Chem. Corp.*, 119 F.3d 688, 695 (8th Cir. 1997). Unless the balance of relevant factors and the particular circumstances in a case weighs "strongly in favor" of the transferee district, "the plaintiff's choice of forum should be left undisturbed." *Downing v. Goldman Phipps PLLC*, 4:13-cv-206, 2015 WL 4078224, at *2 (E.D. Mo. Jul. 6, 2015).

II. ARGUMENT

A. Masa's Choice of Forum is Entitled to Substantial Weight

In considering a § 1404(a) motion, the Court gives great weight to the plaintiff's choice of a proper venue and will only disturb that choice "upon a clear showing that the balance of interests weighs in favor of the movant's choice of venue." *Anheuser-Busch, Inc. v. City Merchandise*, 176 F. Supp. 2d 951, 959 (E.D. Mo. 2001) (citations omitted).

Apple's assertion that Masa's presence in the Eastern District of Missouri is "recent, ephemeral, and an artifact of litigation" is baseless. Masa was founded nearly a year before the initiation of this lawsuit, and for reasons entirely unrelated to forum shopping. Masa is owned by the three inventors of the '834 patent, each of whom have extensive ties to the St. Louis area. Andrea has lived in the St. Louis area since 1981, went to Parkway West High School, graduated from Saint Louis University, and works full time for Ameriprise Financial Services, Inc. in Chesterfield, Mo. Ex. 1 at ¶¶4 and 6. Michael was born and raised in St. Louis, went to CBC High School, has a Masters degree from Lindenwood University, and works full time for The Lauer Appraisal Company in St. Louis. *Id*. at ¶¶3 and 5. Avi lived, worked, and attended school in the St. Louis area from 2007-2011. *Id*. at ¶8.

The facts underlying this litigation are also tied to this District and go back several years. The invention claimed in the '834 patent was conceived in 2010 during brainstorming sessions at the Jersas' home in the Eastern District of Missouri. Masa's owners attempted to develop and market a smartwatch in the St. Louis area. The owners partnered with a local consultant to develop a business plan, sought out local investors to provide start-up capital, retained a local information-technology firm to design and develop a prototype product, and formed an advisory board of local professionals. Two of the investment groups to which the inventors reached out were St. Louis-based angel investment groups that support local startup companies and entrepreneurs. *Id*. at ¶16.

Despite these connections to this District, Apple describes Masa as a "non-practicing entity with no facilities, operations, employees, or presence in [the forum]." Doc. 32 at 10. Masa's circumstances, however, are more closely akin to those of the plaintiff in *Virginia Innovation Sciences, Inc. v. Samsung Electrs. Co., Ltd.*, 928 F. Supp. 2d 863 (E.D. Va. 2013), a case cited by Apple. In *Virginia Innovation Sciences*, although the plaintiff, VIS, did not manufacture or develop products, it was owned by a resident of the forum district, the patented technologies at issue were all researched and developed there, and the patents-in-suit were prosecuted there. *Id.* at 869-70. The court found that VIS was not a "non-practicing entity" for the purpose of its venue analysis, stating that "non-practicing entities" were those that "d[id] not research and develop new technology, but rather acquire[d] patents, license[d] the technology, and sue[d] alleged infringers." *Id.* at 870. Accordingly, the court found that the plaintiff's choice of its forum was entitled to "substantial weight." *Id.* Other courts have distinguished between non-practicing entities and entities owned by the inventors when deciding whether to defer to a plaintiff's forum choice. *LML Holdings, Inc. v. Pac. Coast Distrib. Inc.*, 11-cv-06173, 2012 WL 2994017, at *1, n.2 (N.D. Cal. July 20, 2012) ("Defendants argue at great length that because the named inventors created a holding company which itself has brought suit that they should be classified as 'patent trolls' and not be afforded the same deference in terms of venue selection. While the Court need not reach this issue, it does note that the classic definition of a non-practicing entity, or patent troll, does not envision an entity *which the patent inventors themselves wholly own*.") (emphasis added).

Masa is not in the business of acquiring patents from third-parties for the purpose of suing alleged infringers. Masa was created by the named inventors of the '834 patent for purpose of holding intellectual property resulting from their inventions. In fact, the owners of Masa have continued to devise further innovations incorporating Bluetooth connectivity to cell phones, for which future patent rights may someday be transferred to Masa. Ex. 1 at ¶19. Masa is not a "non-practicing entity," but rather a start-up of local inventors and entrepreneurs. Based on Masa's connection to this District, Masa's choice of its home forum should be entitled to deference and Apple's motion should be denied.

B. The Convenience Factors Favor Maintaining the Present Forum

The "balance of convenience" inquiry involves considering the following factors: (1) the convenience of the parties; (2) the convenience of the witnesses—including the willingness of witnesses to appear, the ability to subpoena witnesses, and the adequacy of deposition testimony; (3) the accessibility to records and documents; (4) the location where the conduct complained of occurred; and (5) the applicability of each forum state's substantive law. *Terra Int'l, Inc.*, 119 F.3d at 696.

1. The convenience of the parties and party witnesses weigh strongly against transfer

Granting Apple's motion would merely shift the inconvenience from Apple to Masa. While Masa does not dispute that the Northern District of California would be convenient to Apple, the inconvenience to Masa of litigating in California would be substantially greater. *Blume v. Int'l Servs., Inc.*, 4:12-cv-165, 2012 WL 1957419, at *4 (E.D. Mo. May 31, 2012) (denying transfer where "transferring the case to the Northern District of Illinois would, as plaintiff argues, only shift the burden from defendants onto plaintiff.").

Apple claims that its "initial investigation has identified at least twelve Apple employees with knowledge relevant to this action." Doc. 32 at 7. This attempt to bolster its transfer argument contradicts Apple's prior representations in discovery. In its Rule 26(a) disclosures, Apple only named four employees (Jonah Harley, Stephen Lottermoser, Andreas Schobel, and Michael Jaynes) as likely to have discoverable information. Ex. 5. In response to Masa's interrogatory asking Apple to identify witnesses whom Apple expected to call at trial, Apple just referenced its Rule 26(a) disclosures. Ex. 6. Further, Apple was originally only willing to identify three ESI custodians (Jonah Harley, Stephen Lottermoser, and Andreas Schobel) as being most knowledgeable about the core issues in this case, and agreed to add a fourth ESI custodian (Denise Kerstein) only at Masa's request. Apple has since refused to include any additional custodians for purposes of identifying relevant ESI. Ex. 4 at ¶8 ("We have provided a reasonable list of custodians that includes the individuals we believe to be most knowledgeable about the core issues in this case. . . . Keep in mind, each additional custodian will be more tangential to the core issues and likely possess cumulative information.").

Apple's transfer-motion-inspired list of "key witnesses" is not credible. Most of these witnesses were identified as knowledgeable about one or more features of the accused Apple Watch. The relevant features of the Apple Watch are apparent and likely will not be disputed at trial. Regardless, it is highly unlikely that Apple will call multiple witnesses to address this topic.

Not only is Apple's list of relevant trial witnesses likely much smaller than the twelve claimed in Apple's motion, but the burden on these witnesses is minimal. Apple's witnesses will likely only have to travel to the Eastern District of Missouri once for trial. Depositions of any of Apple's witnesses can be conducted in California. Additionally, these witnesses are employees of Apple and "as a practical matter, defendant's employees will be available to testify by virtue of their employment relationship." *Blume*, 2012 WL 1957419, at *6.

There is also a large disparity in the parties' resources. Masa is a start-up with limited resources. It is owned by the three inventors. Two inventors live in the St. Louis area and the third lives in India. Ex. 1 at ¶¶2 and 8. The Jersas both have careers separate from Masa. *Id*. at ¶¶ 5-6. Michael Jersa does commercial real estate appraisals for The Lauer Appraisal Company and Andrea Jersa works in finance for Ameriprise Financial Services, Inc. *Id*. To the extent that the Jersas have to travel for trial, they not only will have to bear the cost of travel and out-of-state legal counsel, but they will have to miss work and lose Michael's income, which depends on completed appraisals. *Id.*

Apple is one of the largest companies in the world and has substantially deeper pockets than Masa. *See Robocast, Inc. v. Apple, Inc.*, Civil Action Nos. 11–235–RGA, 10–1055–RGA, 2012 WL 628010, at *2 (D. Del. Feb. 24, 2012) ("Apple is omnipresent in everyday life. It is a large and powerful corporation."). Apple can afford the expense of litigating away from home much more so than Masa. *See id.* ("While Robocast's primary enterprise today may be litigation, there is little reason to believe that its pockets are deep. . . . There is no reason to doubt that if this litigation turns into a war of attrition, Apple will have the upper hand. I think this factor significantly disfavors transfer."); *Smart Audio Technologies, LLC v. Apple, Inc.*, 910 F. Supp. 2d 718, 731 (D. Del. 2012) ("The court agrees with Smart Audio that any inconvenience imposed upon Apple must be examined in light of Apple's vast financial resources. . . ."). The comparative convenience to the parties and party witnesses weighs heavily against transfer.

2. Apple's reliance on the convenience of the non-party witnesses is overstated

There is no indication that the non-party witnesses identified in Apple's motion have any relevant or non-cumulative information. For example, former Apple employees Mathias Schmidt and Felix Alvarez were not listed in Apple's Rule 26 disclosures or the ESI list of custodians. Ex. 4 at ¶8; Ex. 5. Similarly, none of AAC Technologies Holdings Inc. ("AAC"), Nidec Copal Corporation ("Nidec"),[1] or Charles Slutzky were identified in Apple's Rule 26 disclosures. Ex. 5. Outside of vague references to being named inventors on "patent

[1] Apple does not indicate where Nidec is located or that Nidec has any ties to the Northern District of California.

applications related to the Apple Watch" or providing "local engineering support," Apple does not even attempt to explain what relevant information these witnesses have, much less why they would need to attend trial.[2]

Beyond the questionable status of these individuals as trial witnesses, Apple provides no indication that these witnesses would be unwilling to appear at trial. *Virginia Innovation Sciences*, 928 F. Supp. 2d at 871 ("those closely aligned with a party . . . are presumed to be more willing to testify in a different forum.") (internal quotes and citations omitted); *see also Microspherix LLC v. Biocompatibles, Inc.*, 11-cv-80813-KMM, 2012 WL 243764, at *5 (S.D. Fla. Jan. 25, 2012) ("There is no indication that [the non-party witness] is actually unwilling to testify.").

Nor does Apple provide any reason why reliance on deposition testimony at trial would be inadequate. Rule 45 was amended in 2013 to provide presiding courts with the power to issue subpoenas nationwide so long as the place of compliance is within 100 miles of the witness's residence or regular place of business. Fed. R. Civ. P. 45(a)(2), 45(b)(2), 45(c)(1)(A). To the extent either party seeks third-party witness testimony from California, the witness's deposition testimony would be available at trial. *See* Fed. R. Civ. P. 32(a)(4) ("A party may use for any purpose the deposition of a witness, whether or not a party, if the court finds…that the witness is more than 100 miles from the place of hearing or trial ….."); *see also TracBeam LLC v. Apple, Inc.*, 6:14-cv-680, 2015 WL 5786449, at *5 ("Further, neither party has shown that deposition testimony at trial would prejudice Apple or TracBeam. Accordingly, this factor is neutral.") (citation omitted).

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[2] Apple identified AAC and Nidec as being "involved in developing the Taptic Engine, which is one of the accused features of the Apple Watch Products." Doc. 32 at 3-4. Apple has already identified Jonah Harley as its engineering manager in charge of developing the Taptic Engine for the Apple Watch. *Id.* at 7. Thus, any information obtainable from either ACC or Nidec is likely cumulative. Further, the need for any trial witness to testify regarding the development of the Taptic Engine is unlikely. The relevant claim limitations of the '834 patent only require a "vibrating unit" and Apple's website refers to the Taptic Engine as providing a "vibration or pulse when you receive an alert or notification." Ex. 7. Masa submits that the issue of whether or not the Apple Watch has a vibrating unit will not be a disputed issue for trial.

Apple's reference to Masa's attempt to sell or license the '834 patent to Google and Qualcomm is equally unpersuasive. Masa attempted to license the '834 patent to several technology companies, including numerous companies outside of the Northern District of California. Ex. 1 at ¶13. These communications (all of which have been produced by Masa) were little more than inquiries into the technology companies' potential interest in the '834 patent. *Id.* None of these efforts progressed very far. *Id.* No meeting ever took place with Google. *Id.* While Apple claims that Google and Qualcomm "*may* have information relevant to the validity and value of the '834 patent" (Doc. 32 at 9 (emphasis added)), Apple provides no indication that they actually do have any relevant information. And there is no basis to believe employees from these companies would need to appear at trial or provide "important live testimony," as Apple asserts.

Many of the third-party witnesses identified by Apple are located outside of the Northern District of California. For example, Apple's own evidence regarding the location of Michael Brunolli shows him to reside in San Diego County, more than 100 miles from the Northern District of California. Apple's Exhibit M. Qualcomm is also located in San Diego—outside of the 100-mile subpoena power of the Northern District of California. Apple's Exhibit D.

Other potential third-party witnesses that were not identified by Apple are located outside of the Northern District of California. For example, Best Buy and Target, both headquartered in Minnesota, recently announced that they have begun selling the accused Apple Watch Products nationwide. Ex. 8. And to the extent that the attempts by Masa's owners to develop a smartwatch product are relevant at trial, most of the third-party witnesses having information regarding these attempts are located within the Eastern District of Missouri. Ex. 1 at ¶15.

Apple has not demonstrated that the convenience of the witnesses—including the willingness of witnesses to appear, the ability to subpoena witnesses, and the adequacy of deposition testimony—favors a transfer to the Northern District of California. Therefore, this factor is neutral.

3. The location of Apple's Records in Cupertino should be given little weight

While still recognized as a factor to be considered in the venue analysis, the accessibility of records and documents should be afforded minimal weight. *Compression Tech. Solutions LLC v. EMC Corp.*, 4:11-cv-1579, 2012 WL 1188576, *7 (E.D. Mo. April 6, 2012) ("technological advances might alter the weight given to these factors") (internal citations omitted); *Smart Audio Techs.,* 910 F. Supp. 2d at 732 (D. Del. 2012) ("this factor weighs ever so slightly in favor of transfer"). With electronically stored information and the ease with which paper documents can be scanned, this factor is antiquated and "is largely a neutral factor." *Int'l Controls & Measurements Corp. v. Honeywell Int'l, Inc.*, 12-cv-1766-LEK, 2013 WL 4805801, at *23 (N.D.N.Y. Sep. 9, 2013) (quotation omitted); *see also Blume*, 2012 WL 1957419, at *7 ("[W]ith the advent of photocopying and other means of document reproduction, the location of documents is no longer entitled to much weight in the transfer of venue analysis, especially where, as here, the parties have the financial capability to complete the necessary copying.") (quotation omitted).

In fact, both parties have stipulated to produce documents in either "searchable PDF format" or as "native file[s]" and that "all documents that are hardcopy or paper files shall be scanned and produced in the same manner as documents existing in electronic format." Doc. 30 at 2-4. "Access to documents and other proof is not a persuasive factor in favor of transfer without proof that documents are particularly bulky or difficult to transport, or proof that it is somehow a greater imposition for defendant to bring its evidence to [St. Louis] than for plaintiff to bring its evidence to California." *See View 360 Solutions LLC v. Google, Inc.*, 2013 WL

998379, at *4 (N.D.N.Y. Mar. 13, 2013) (internal quotation omitted). The burden on Apple to bring its evidence to the Eastern District of Missouri is minimal.

4. The location where the conduct complained of occurred is neutral

The conduct complained of in Masa's compliant is Apple's infringement of the '834 patent "under 35 U.S.C. § 271(a) and (b) by making, using, importing, selling, and/or offering to sell its Apple Watch Products." Doc. 1 at ¶27. Apple does not contend that it manufactures the accused Apple Watch Products in Cupertino. And Apple's infringing sales occur throughout the United States, including in the Eastern District of Missouri. *See* Doc. 32 at 3 (acknowledging that Apple has "two Apple retail stores in the St. Louis area"). Because Masa's claims arise throughout the country, including in both the Northern District of California and the Eastern District of Missouri, this factor is neutral. *See Robocast*, 2012 WL 628010, at *2 ("I think the claim that is relevant here is the plaintiff's claim that Apple's products, which are sold and offered for sale all over the United States, including Delaware[], infringed its patent. Thus, I think the claims arise in every judicial district."). This factor is neutral.

C. The Interest of Justice Factors Favor Maintaining the Present Forum

The "interest of justice" inquiry involves considering the following factors: (1) judicial economy, (2) the plaintiff's choice of forum, (3) the comparative costs to the parties of litigating in each forum, (4) each party's ability to enforce a judgment, (5) obstacles to a fair trial, (6) conflict of law issues, and (7) the advantages of having a local court determine questions of local law. *Terra Int'l, Inc.*, 119 F.3d at 696. As addressed above, Masa's choice of forum and the comparative costs to the parties of litigating in each forum strongly weigh against transfer.

1. *The Eastern District of Missouri has a strong local interest in deciding this case*

As a recent startup, Masa admittedly lacks the footprint of Apple. But describing Masa's or this lawsuit's connection to the local community as "minor" or "weak" is erroneous. Masa is located in the Eastern District of Missouri; not as an artifact of litigation, but because this is where two of its owners have lived nearly their entire lives. The Eastern District of Missouri is where Masa's owners invented the smartwatch described in the '834 patent. Further, Masa's owners attempted to build a startup company in St. Louis to develop and market a smartwatch with the assistance of local consultants, designers, and investors.

St. Louis has developed a strong entrepreneurial community. Popular Mechanics recently called St. Louis the best startup city in America and the Wall Street Journal recently identified Missouri as the state having the highest rate of increase in startup activity in the country. Ex. 9; Ex. 10. The Eastern District of Missouri has a legitimate interest in this case involving local entrepreneurs seeking to protect their patent rights, which resulted from local innovation.

2. *The other public interest factors are neutral*

Apple correctly acknowledges that the Northern District of California and the Eastern District of Missouri are "similarly equipped to render a valid and enforceable judgment." Doc. 32 at 13. Masa's patent-infringement claim against Apple is governed by federal law and both jurisdictions are equally capable of applying this law. Apple argues for transfer because the Northern District of California is a participant in the Patent Pilot Program. Doc. 32 at 14. While the Eastern District of Missouri may not participate in the Patent Pilot Program, this District has adopted local patent rules and has handled many important patent cases. The Eastern District of Missouri is well equipped to handle this dispute.

Apple also asserts that selected case-management statistics from the Northern District of California and the Eastern District of Missouri support transfer. Numerous courts have warned that reliance on such statistics is, at best, speculative. *See In re Apple*, 602 F.3d 909, 915 (8th Cir. 2010) ("But as the Federal Circuit recently stated, whether one court would move any given case to trial faster is 'speculative,' because 'case-disposition statistics may not always tell the whole story.'") (quoting *In re Genentech*, 566 F.3d 1338, 1347 (Fed. Cir. 2009)). Further, the statistics cited by Apple are misleading. Apple states that the average time to termination for patent cases resulting in contested judgments is shorter in the Northern District of California than in the Eastern District of Missouri. Doc. 32 at 14. But Apple's own exhibits show that the average time to termination by trial for patent cases is 35.3 months in the Northern District of California compared to 34.3 months in the Eastern District of Missouri. Apple Exhibits N and O. These factors are neutral.

III. CONCLUSION

The relevant convenience and interest-of-justice factors weigh against transferring this case from Masa's home forum to the Northern District of California. Masa respectfully requests the Court to deny Apple's motion.

Dated: October 19, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 19th day of October, 2015, the foregoing was filed via the ECF/CM system with the Clerk of the Court and served upon all counsel of record by operation of the Court's ECF/CM system by means of the Notice of Electronic Filing.

/s/ Marc Vander Tuig